

**Trials and Reconciliation:
Transitional Justice in Argentina, Chile, Peru and Paraguay**

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“To close our eyes and pretend none of this ever happened would be to maintain at the core of our society a source of pain, division, hatred and violence. Only the disclosure of the truth and the search for justice can create the moral climate in which reconciliation and peace will flourish.” – President Patricio Aylwin, Chile, 1990

I.) Introduction

The 20th century was plagued by human rights abuses of dictators against their people. At the end of World War II, Nazi crimes and the resulting Nuremberg Trials served as the impetus for a growing field of transitional justice experimentation and research. According to Teitel (2003), transitional justice is the “conception of justice associated with political change, characterized by legal responses to confront the wrongdoings of predecessor regimes” (69). While the post-WWII trials characterized a first phase of transitional justice, Latin America in particular became a testing ground for a second phase, which occurred following lengthy military dictatorships between the 1970s and the 1990s. 17 countries in Central and South America faced human rights abuses from 1972 to 1999, and the experiences of these nations transitioning from repression to democracy define the second era of transitional justice (Sikkink and Walling 2007). Many of these nations embraced transitional justice mechanisms including truth commissions, amnesties, reparations, and domestic and international trials, but the combination and frequency of mechanisms used varied.

In the cases of Argentina, Chile, and Peru, national governments employed multiple mechanisms over a period of decades as they transitioned to democracy. All three countries also eventually experienced a trial of a key strongman leader. The strongman was identified as an authoritarian head of state guilty of massive human rights

abuses. These dictators and military leaders were identified as responsible for atrocities committed by the entire regime and tried in domestic courts. In Argentina, leaders of the military junta including Jorge Rafael Videla were tried and given strict sentences. Chilean dictator Augusto Pinochet was arrested abroad and later tried domestically, although he died before prosecution was complete. Former Peruvian President Alberto Fujimori was tried for human rights abuses and corruption and handed a lengthy jail sentence. The trials of these heads of state were accompanied by trials of lower ranking officials as well as the implementation of other transitional justice mechanisms.

This thesis explores the effect of domestic trials of key strongman figures on reconciliation between the state and society. By strongman, I refer to a powerful, leading political figure that ruled by force. For reconciliation, I use a commonly accepted, simplistic definition that implies a conciliatory relationship between two formerly antagonistic persons or groups. Though reconciliation is both a goal and a process, in this thesis I refer to reconciliation as a goal that must be achieved (Bloomfield, Barnes and Huyse 2003, 12). I illustrate that reconciliation is achieved successfully after a lengthy and multifaceted process, and that process culminates in the trial of a strongman.

Examining reconciliation encourages a study of the effects of transitional justice mechanisms beyond the more commonly studied quantifiable effects, such as the effect of trials on future human rights abuse and the stability of the democratic regime. This thesis studies the transitional justice experience, growth of national institutions and the role of civil society organizations leading to a trial of strongman in order to characterize how a nation reaches the ultimate goal of reconciliation. I discuss reconciliation between the people and the state, not between individual citizens, in order to explore the

rebuilding of a relationship and trust between a newly democratic regime and its people. In particular, in this thesis I explore the effect that the identification and trial of a strongman leader has on the relationship between the people and their government.

I focus on the experiences of Latin American nations because several experienced similar transitional processes involving similar institutions at similar times following human rights abuses. Some Latin American countries were among the first to implement transitional justice mechanisms, and other countries including South Africa, Sierra Leone and Cambodia have since modeled their transitional justice experiences on those of Latin American nations. Following a discussion of existing research, I will discuss why the trial of a strongman dictator helps encourage reconciliation between state and society in the context of Argentina, Chile, Peru and Paraguay. I include historical background on the human rights abuses in each country and its use of transitional justice mechanisms, focusing on the strongman figure and his trial.

While many have discussed the importance of trials post-conflict, they do not discuss identification and trial of a strongman leader specifically, and also do not focus on reconciliation as a result of those trials. Who is being tried may prove to be a critical factor in national rebuilding. Further research based on this thesis should examine the role of the economy in reconciliation in transitional societies engaging in trials. Nonetheless, my research will add to the growing literature on the effects of transitional justice mechanisms, but with a more specific focus on the trial of a strongman. This research adds to the field of policy prescriptions for transitional societies and will be relevant to nations facing transition worldwide.

II.) Literature Review

The Transitional Justice Field:

Most transitional justice research focuses on the effects of implementing various mechanisms in order to determine the best practices for a transitioning nation to adopt. These mechanisms include domestic and international trials, truth commissions, reparations, and smaller scale mechanisms of memorials and museums. One subset of this broad research contrasts different mechanisms used across nations and years.

In *Transitional Justice Genealogy*, Ruti Teitel (2003) discusses the three main phases of transitional justice: following World War II, post-Cold War, and the 21st century. The global Nuremberg Trials characterized the first phase, with clear winners and losers awaiting punishment in a new era of international justice. She argues that the second phase differed, however, because truth commissions became more prevalent than the international trials seen in the first phase, juxtaposing the ideas of truth and justice that are often seen as contradictory. Truth commissions focus on creating a historical record and giving a voice to those previously silenced, acknowledging their experiences. While truth commissions do not prosecute former leaders, they allow for an opening up of society and discussion of topics previously censored. Teitel calls this phase, which favors truth commissions over trials, a restorative model. According to Teitel, “the primary aim of truth commissions was not justice but peace,” which is a more modest goal (79). Teitel calls the third phase “steady-state transitional justice” in which the concept of transitional justice as a whole is normalized and seen as a common aspect of political change.

One issue with Teitel's work and related research is that it generalizes all transitional justice efforts across the globe into broad phases and models. Such generalizations ignore specific countries that do not fit a model, or only fit the model for a set period of time. A major criticism of the transitional justice field is that it offers "one size fits all" solutions that come from the liberal idea of nation building and are not country-specific (Sharp 2011, 790). Therefore, Teitel's work, though valuable in becoming familiar with transitional justice's major elements and effects, requires deeper investigation into specific countries at specific moments. Factors including the state's experience with human rights abuse, economic status, and institutional development affect the transitional justice experience and how much reconciliation is achieved. Therefore, studying nations more closely allows one to parse out individual factors that could be at play during the transitional experience.

Effects of Transitional Justice Mechanisms:

In the context of a wave of democratic transitions in the late 20th century, scholars and politicians were concerned with what effect trials and truth commissions would have on the development of democracy and potential recurrence of human rights abuse. But despite initial research that caused some nations to fear adopting transitional justice mechanisms, human rights trials do not seem to undermine a transition to democracy (Sikkink and Walling 2007). Sikkink and Walling (2007) use the experience of Latin America to refute the argument that human rights trials cause political and societal division that undermine a transition to democracy. According to them, "Since the first trials began in 1978, there have been three coups in Latin America, and none was

provoked by human rights trials. The 14 countries that used trials are considered democratically consolidated and have not had successful coup attempt since initiating trials (2007 434). In short, countries that used domestic trials to prosecute former abuses remained mostly democratic and stable. Moreover, this thesis illustrates that domestic trials, particularly of a strongman, do not worsen divisions within society and assist in reuniting society with its government.

Previous research also explored the deterrence effect of transitional justice efforts. Early critics of transitional justice feared that transitional mechanisms, mainly trials, could cause leaders to become more fearful of losing power and therefore more repressive (Kim and Sikkink 2010). However, according to Hun Joon Kim and Kathryn Sikkink (2010), countries that prosecute previous human rights abuses are less repressive in the future than countries without prosecutions, and countries whose neighbors are prosecuting are also less repressive (941). They argue that high costs including financial costs of litigation, lost income and lost legitimacy are imposed on rights abusers during prosecution, even when the prosecution does not result in conviction (945). These costs deter other leaders from violating human rights laws in the future, even if prosecution is not successful. Therefore, the use of trials diminishes the likelihood of future human rights abuses.

In a similar vein, James D. Meernik, Angela Nichols, and Kimi L. King (2010) expanded upon this research and focused on how international tribunals and domestic trials affect peace and human rights after civil war. Their goal is to add to the contentious literature on whether or not transitional justice mechanisms inhibit peace by dividing society while pursuing justice, which is known as the peace versus justice debate. The

authors begin by outlining four reasons that trials and tribunals help promote peace: first, mechanisms such as trials lead to justice and truth by creating a more complete historical record of past abuses. Second, trials and tribunals remove those who committed abuses from power and ostracize them. Third, other leaders are deterred from taking similar abusive actions. And finally, trials and tribunals help mobilize domestic groups and social movements to prevent further abuses (Meernik, Nichols and King 2010, 315-316).

However, their models ultimately do not support their initial hypothesis. The authors conclude, “Those states that adopt these judicial remedies for confronting human rights abuses neither find their human rights scores worsening nor improving in post civil war environments. Nor do they appear to reap any benefit in the form of a reduced risk of renewed civil conflict,” (Meernik, Nichols and King 2010, 321). Despite these results, the authors do not contend that trials and tribunals should not be used because it is possible that these methods prevented some states from worsening in terms of internal conflict and human rights. The authors also note that their hypothesis could be valid for some subsets of states (323). The authors included every state in which a civil war ended after 1982. Therefore, the data set represents a wide range of conflicts and internal conditions, including conflict motivated by politics, territory, and ethnic strife. Therefore, examining the data set in different ways would likely yield different results.

In sum, previous research offers important general conclusions on the effects of transitional justice as a political process and the effects of various mechanisms on democracy and the likelihood of future human rights abuse. However, research has not evaluated the effect of who specifically is being tried.

The trial of a top figure offers several unique benefits for a transitional society. First, holding individual leaders accountable dispels notions of collective guilt for entire groups of citizens, which is beneficial for reconciliation (Meernik, Nichols and King 2010, 315-316). According to Meernik, Nichols and King (2010), “The individualization rather than collectivization of guilt for these crimes is intended to not only attribute responsibility to those most culpable, but also to shed light on the machinations these leaders employed to instill ethnic hatred and hide evidence of their atrocities.” Particularly in societies with strong ethnic, economic or urban-rural divides, identifying a key figure for trial lessens the mentality of holding one large group accountable for violence against another large group.

One concern with trials, particularly with lower ranking officials, has been that prosecutions can pit neighbors and even families against one another, dividing society. Drawing a line in responsibility for crimes is difficult because opinions differ on whether someone who was forced to follow orders and carry out abuses is culpable. However, there is no doubt that strongman figures can be held responsible for the actions of a government. It is highly likely that leaders were directly involved with crimes, knew about the crimes or deliberately kept themselves from knowledge of the crime (Lutz and Reiger 2009, 3). Therefore, focusing on the trial of a strongman instead of lower ranking officials places blame where it most clearly belongs and eases societal tension among citizens.

For these reasons, it is crucial to not just examine human rights trials, but also who specifically is being tried. To fill this gap in the literature, my research offers a more

detailed analysis of individual countries and of the unique effects of not just using trials as a transitional justice mechanism, but of identifying and trying a single leader.

Reconciliation and Transitional Justice

Most of the existing literature, particularly from the earlier years of the relatively new field, focuses on clearly quantifiable effects of transitional justice such as stability of democracy, recurrence of human rights abuse, and peace (measured as the absence of violence). Over the past few decades, transitional justice mechanisms have become commonly accepted as a positive step in the movement toward a stable democracy. However, other aspects of post-transition political and social life merit equal examination. Current transitional justice research must now focus on effects that are less easily quantified but equally important. For this reason, I examine reconciliation between state and society to see if transitional justice mechanisms help repair the broken relationship between a formerly repressive government and its people.

The minimal existing literature that combines transitional justice and reconciliation focuses only on the role of truth commissions and amnesties in reconciliation. However, these mechanisms only produce a historical record or truth and do not include enforcement mechanisms (Woods 1998, 115). Many of these truth-based mechanisms also involve amnesties, and so, leaders are never forced to admit to having wronged their people. This lack of responsibility poses a problem with reconciliation because society cannot forgive a government for its abuses if the government does not admit to those crimes at all. According to Woods (1998), when figures are not held accountable for crimes, “The danger exists that granting amnesties to such perpetrators of

gross atrocities in the name of national reconciliation will result in its opposite, violent retaliation” (117). By providing national leaders amnesty, the burden of reconciliation is placed on the people, the victims. Therefore, some action must be taken on the part of the government, beginning with key figures admitting wrong. Trials of dictators require the figure most clearly responsible for wrongdoing to admit to crimes and face punishment.

Within the limited literature on reconciliation and transitional justice, truth telling is commonly accepted as a necessary initial step toward reconciliation. According to Pankhurst (1999), “the absence of some process of public truth-telling is a major inhibition to reconciliation, and therefore at least to long-term or positive peace, but truth commissions or other processes of revelation and recording of the past also throw up issues of amnesty versus prosecution” (241). Pankhurst suggests that transitional nations exist on a spectrum with no effort toward justice or reconciliation on one side and a positive peace situation on the other. She then proscribes several policies to move nations in the direction of reconciliation in peace settlements. These include a truth process, the creation of new civil society organizations, and agreements on amnesty and impunity policy. Pankhurst also identifies two major factors that can affect reconciliation: the political and economic situation. These factors are crucial because the nature of political institutions and competition for scarce resources can heighten conflict (248). Pankhurst’s work is useful in surveying factors that influence reconciliation; however, it is limited in regional scope and lacks specific investigation, illustrating the need for more research in the intersection of reconciliation and transitional justice.

Existing literature on reconciliation in a transitional society, then, indicates a need for a truth record in which state leaders recognize their wrongdoings, as well as a pursuit

of justice. A trial of a strongman figure provides this historical record and places blame on guilty shoulders. Therefore, existing research on reconciliation supports the idea that a domestic trial of a strongman will bring state and society closer together.

The specific element of trying a strongman is not present in the literature, but it likely has a strong influence on reconciliation. Trials of a strongman do not have the same divisive quality found in some trials of lower-ranking officials. By placing blame on one or a few key figures, citizens are able to move on and away from the idea of collective guilt within particular social groups. Finally, trying a former leader represents a symbolic break with the previous regime and the condemnation of the former political system as a whole (Lutz and Reiger 2009, 3). Other transitional justice mechanisms can permit aspects of the previous regime to continue, and do not condemn the previous regime with the same amount of force. The trials of strongmen serve as a transition points, not just from one regime or government to another but also to a new chapter in the nation's history.

III.) Theory

This thesis aims to test the link between domestic trials of a strongman figure and reconciliation between state and society. Montville (1993) outlines a three-step formula for reconciliation: acknowledgement and contrition from the perpetrators and forgiveness from the victims (113). This formula implies recognition of wrongdoing and who caused it, and then expects the wronged to slowly move on. However, for many,

acknowledgement of misdeed is insufficient, and further steps must be taken for reconciliation to occur.

When examining a nation recovering from political trauma, the concept of justice becomes inextricably linked to reconciliation (Woods 1998). Once a set of facts has been established, political actors guilty of atrocities must also be punished in the political realm for the new government to be legitimate in the eyes of the people. Therefore, national recognition requires truth telling as an initial step; however, it also necessitates a justice mechanism to politically integrate the truth into the new government and society. The pursuit of justice instigates a purge of previous regime officials, substantiation of equality before the law and a test of the viability of national institutions, all contributing to reconciliation (Woods 1998, 104). Based on these claims, I will illustrate that truth, then justice, is necessary for reconciliation to occur. I will then argue that the trial of a strongman figure is the most efficient way to provide truth and justice for an ailing nation, ultimately bringing increased reconciliation between the government and people.

Truth

The first step towards reconciliation is a public acknowledgement of past events. In countries recovering from severe oppression, sources like the press and government records were likely inhibited in terms of expression. Public discussion of events under the previous regime was also likely dissuaded by censorship, self-censorship or societal taboo. Therefore, an official record of what occurred must be constructed. This

includes discussion of human rights atrocities committed against the people as well as who ordered and carried them out.

Truth commissions, particularly in Latin America, were often seen as the first step in transitional justice because they required investigation into the previous regime and creation of a historical record. According to May (2013), “Commonly after periods of official state denial, truth commissions are charged to create some official document which will become a guidepost for a socially defined historical memory” (496).

Constructing a document creates a collective memory for a country in which discussion of past events was suppressed and acknowledges individuals in society as victims.

Nonetheless, some question the importance of truth as a concept in transitional justice efforts due to its complex nature. Particularly in transitional nations recovering from ethnic and religious conflict, there may be multiple versions of the truth with only one version internalized by a particular population (Clark 2011, 250). Clark questions the importance placed on truth in existing literature, mostly referencing Rwanda and South Africa, in which society was divided along ethnic lines. However, in the four cases examined in this thesis and Latin American cases in general, conflict occurred predominantly with a military government on one side and the people on the other.

While the line between government and civilian can blur, Latin American cases are easier to generalize into the state versus the people, not groups of citizens versus each other.

Those within the same group would have the same or similar ideas of what is the truth.

Therefore, creating truth records in these cases provides society as a whole with a statement of truth, proving it essential to acknowledge a truth despite the subjectivity of the concept.

Justice

However, truth commissions lack hard power and ultimately only produce a summary report. Though creating a historical record is necessary for the initial steps toward reconciliation, truth must be acted upon because a statement of facts does not lead automatically to justice. According to Goti (1998), “Beyond deep-seated retributive emotions, the drive toward punishment is tied to the entrenched belief that criminal justice plays a central role in teaching us the truth about past deeds” (420). Therefore, truth records used in trials become essential because the historical record then carries legal weight. Trials establish a legal truth and affirm the fundamental rights of citizens to be legally protected based on that truth.

The process of transitional justice implies that a new government and legal system is being put in place that is morally superior to the previous (Turner 2013). Turner says, “transitional justice rests on the paradox that it seeks to address past failings of the law by replacing it with law” (2013). The new, improved legal system can show its strength and create a favorable perception with the public by prosecuting previous wrongdoers and creating a greater sense of stability and justice in the state. Furthermore, new leaders benefit from transitional justice mechanisms and adopting international legal standards. These leaders gain legitimacy, domestically and internationally, and distance themselves from the discredited previous leaders. Therefore, the new government has a strong incentive to pursue transitional mechanisms such as trials that also have a positive impact on the quality of democratic institutions.

Trials lead to a better opinion of the government for multiple reasons. First, trials instigate a purge of former leading officials. This removes vestiges of the previous regime from power that society would not accept. This purge also provides a greater feeling of protection to society by attaching a negative stigma to the removed individuals, ensuring that they cannot hold power and perform the same abuses again (Woods 1998, 104).

By holding formerly powerful figures accountable, trials also strengthen the impression of rule of law and equality before the law. According to Argentine scholar Carlos Santiago Nino (1989), who was involved in the prosecution of the junta, “[Trials are] required to inculcate in the collective conscience... that no sector of the population stands above the law and that under no circumstance may a human being be treated as a base object, a means to a goal,” (136). When former officials are tried, the strength of the new law formed during transitional justice is put to the test. Therefore, trials facilitate reconciliation by removing perpetrators from power and providing a sense of protection, as well as improving public perception of the law and equality under it.

While this is true of the trial of any official, its affects are amplified with the trial of a strongman because the strongman is seen as the most powerful and responsible figure of the former regime. According to Roht-Arriaza (2009), “Trials involving heads of state tend to be high-profile test cases and to raise the largest number of difficult legal and political issues” (47). Therefore, though trials of strongmen present a challenge, prosecuting high-ranking officials also represents a greater achievement for the new government and law. Therefore, trials of strongmen can show the strength of the new,

improved legal system and government free of the former regime, allowing the public to regain confidence and reconcile with the state.

Trials and the quest for justice can also strengthen confidence and participation in national institutions, which has positive implications for reconciliation. Transitional justice mechanisms serve as catalysts for popular participation and stronger institutions (Mihir 2013). Mihir states that transitional measures “enhance democratic performance by increasing accountability, transparency, or participation of, among, and with democratic institutions, and consequently strengthening and legitimizing them.” New institutions like truth commissions and courts also encourage dialogue between government and citizens. An increase in popular participation strengthens new and existing democratic institutions. Stronger democratic institutions also contribute to reconciliation. As the population interacts more with government institutions and those institutions respond, “democratic institutions indicate a certain level of responsiveness and accountability which leads to more civic trust” (Mihir 2013). Civic trust is key in a transitional society accepting its new government. Therefore, transitional mechanisms like trials can have a positive effect on democratic institutions, which, in turn, facilitates reconciliation.

Trial of a Strongman

One concern with trials is that they open up a watershed of legal action and blame. As was the case in Argentina, it is difficult to draw a line between individuals who orchestrated human rights abuses and those who followed orders from above, creating legal and social confusion. Allocating blame is even more challenging during a messy democratic transition where some former leaders maintain influence. This leads to intense

debate in who should be held responsible, dividing society. Pankhurst (1999) cautions against widespread trials, saying “Even if the logistical problems of prosecuting thousands, or even millions, of people could be overcome, there are still difficult issues of judgment to be made about the type of punishment appropriate where reconciliation is also hoped for” (242). Attempting to prosecute everyone who played a minor role in abuse is logistically challenging and socially isolating. Pankhurst identifies another concern with prosecutions in that there is a risk of prosecuting “the wrong people” based on what evidence or documentation is available (249).

The trial of a single leader solves a few of these complications. Figures that served as the public face of the government such as dictators would be clearly implicated in previous abuse. Therefore, a trial of a strongman figure settles debates of responsibility in situating prosecution at the very top of the political hierarchy. Isolating this strongman for trial does not imply that lower officials will not be tried; however, it places the blame more squarely on a few individuals, allowing lower ranks that only followed orders to assimilate back into society. Trials become more difficult logistically and in terms of reconciliation when attempting far reaching trials of a large portion of society, so the trial of a strongman is a more efficient course of action.

Other benefits of centering prosecution at the top are psychological. According to O’Connell’s study of the psychological effects of prosecution (2005), victims respond positively to the prosecution of those who directly wronged them. He says, “Usually, as rank and distance from direct perpetration of an abuse increase—to unit commanders, generals, cabinet ministers, and heads of state—the number of victims whose suffering stemmed from the defendant’s actions also increases. For example, a trial of a dictator

might psychologically affect more victims than the trial of a single torturer, because more victims can trace their suffering to the dictator,” (305). Therefore, trying one figure that harmed more people will have a greater impact than trying multiple lower-ranking officials. A strongman figure will be identifiable to the public as having wronged the greatest number of people, perhaps even the majority of society. Therefore, his trial will produce the greatest positive effect.

Domestic trials provide several conditions necessary to further reconciliation: the establishment of a formal truth with legal weight, a purge of previous regime officials, substantiation of equality before the law and a test of the viability of national institutions in the search for justice. Trials of a strongman figure specifically will likely be more effective because they are less divisive and center blame squarely at the top of the regime’s hierarchy. For these reasons I offer the following hypothesis:

Hypothesis: The trial of a strongman leader in countries undergoing post conflict transition to democracy encourages the highest degree of reconciliation between society and government.

IV.) Analysis

To test my hypothesis, I use four cases studies: Argentina, Chile, Peru and Paraguay. These cases were chosen because each encountered a similar and interconnected experience with dictatorship and human rights abuse around the same time. However, the countries differed in how they began to shift to democracy and how each embraced the burgeoning concept of transitional justice. I will begin each case study

by providing a brief overview of the historical context of human rights abuse in each nation. Then, I will describe the transitional justice efforts each country employed aside from the trial of a strongman figure. Next, I examine the evolution of democratic institutions and the role of civil society organizations in the transitional justice experience of each nation. Finally, I analyze the factors surrounding each dictator's trial including public perception of the trial. I use Paraguay as a negative case and will gauge reconciliation in the absence of a trial of a major figure.

I examine democratic institutions and civil society organizations because both are necessary for transitional justice mechanisms, particularly trials, to occur. Furthermore, the advancement of institutions and civil society also contributes to reconciliation. Trials, particularly of well-known figures with varying degrees of influence, cannot take place without a developed legal system to gather evidence and prosecute them according to the law. Civil society organizations also encourage trials by providing a call to action for the government and encouraging popular support for transitional justice efforts. Civil society also provides services to facilitate the operation of transitional justice mechanisms, such as collecting information and documentation necessary for the mechanism to function (Backer 2003). Therefore, the development of democratic institutions and role of civil society organizations make the trial of a strongman possible. However, they also contribute individually in moving society toward reconciliation with the state before any trial occurs.

As previously mentioned, reconciliation is a broad concept that does not lend itself to pure quantitative analysis. For this reason, I employ a variety of sources and factors to illustrate the role that trials of strongman figures play in making society more

comfortable with its government including public opinion data and media coverage. Given the confluence of confounding factors involved, drawing a direct causal relationship between a trial and reconciliation is difficult. Instead, I use a variety of sources to illustrate that trials of dictators, made possible by the use of other transitional mechanisms, the development of democratic institutions and civil society organizations, positively affect reconciliation. Nonetheless, an extremely influential factor not addressed in this thesis is the economy. Public opinion is largely tied to a nation's economic situation, and further work should analyze the role of the economy in facilitating reconciliation in transitional societies. The trial of a strongman represents the height of reconciliation efforts, but it cannot be reached without the use of other transitional justice mechanisms, developed democratic institutions and a robust civil society.

See Table A

Argentina

Dictatorship and Historical Background:

The late 1970s were a tumultuous time in Argentina, dominated by a power struggle between extremists on the right and left. Marxist ERP (People's Revolutionary Army) attacked the military, and conflict surged between left-wing Montoneros and ultraright Peronists. When the military seized control of the country on March 24, 1976, the general population largely welcomed them, seeking an end to insurgency and turmoil (Robben 2012, 307). From 1976 to 1982, three military juntas ruled Argentina,

harnessing control systematically, brutally and covertly. During this time at least 9,000 citizens disappeared into a network of 350 secret detention camps. Several thousand more were killed, with estimates from human rights groups spanning 15,000 to 30,000 total disappeared (Roht-Arriaza 2009, 51). Argentina's terror also crossed borders, with the military regime playing a major role in the six-nation Southern Cone terror network known as Operation Condor, which disappeared suspected subversives internationally.

A major characteristic of Argentine state violence was that it operated under a complete veil of secrecy. Argentine citizens were not just tortured and killed. Rather, they ceased to exist, and according to official documents, had never existed at all. There was no legal justification given for arrest or punishment and the end location of disappeared victims (mainly third-party citizens not affiliated with extremist groups) remained unknown (May 2013).

Following the disgrace of the military in the Falklands War and the collapse of the regime, Argentina became an early pioneer in accountability for heads of state. The first democratically elected president, Raúl Alfonsín, was elected on October 30, 1983 and assumed the presidency on December 10. Soon after taking office, he overturned the junta's original amnesty law and called for a truth commission. The release of the report *Nunca Más* prepared the country for an onslaught of military trials. The Buenos Aires Federal Court originally convicted the nine junta members and domestic trials became the predominant mechanism under Alfonsín as many individual citizens filed a deluge of cases. Alfonsín then proposed the *Punto Final* (or Full Stop) law, halting prosecution.

President Carlos Menem came to power in the 1989 election and quickly issued a series of controversial pardons of high-ranking officials, including Videla. Though Videla

spent 38 days in jail and under house arrest, he was not effectively punished with amnesty laws still in effect. Prosecutions picked up again in earnest when Nestor Kirchner assumed the presidency. The Argentine Congress voted to annul two amnesty laws in 2005, placing pressure on the courts to return to trials in the transitional process. After the Supreme Court officially repealed Menem's pardons in 2006, trials resurged, including the trial of Videla and other officials whose trials had been suspended (Roehrig 2009). Videla did not appear frequently during this trial, stating that he already went through a trial in 1985 and would not do so again. Nevertheless, Videla was convicted of human rights abuses and sentenced to life in a civilian prison on December 22, 2010.

Argentina endured a rollercoaster experience in trying a strongman, beginning with strong enthusiasm for domestic trials but followed by pardons of leaders. The country encountered myriad legal and institutional difficulties, but civil society continued to push for justice. Ultimately, the repeal of amnesty laws and pardons and the conviction of Videla represent a continued commitment to justice.

Transitional Justice Mechanism Experience:

As democracy returned to Argentina, presidential candidate Alfonsín campaigned on a promise to discover the truth and punish the military, despite the fact that the juntas had granted themselves immunity before stepping down. In his first week in office, President Alfonsín established a 10-person truth commission led by Ernesto Sabato known as CONADEP (National Commission on Disappeared Persons) or the Sabato Commission (May 2013, 499).

Argentina was an early pioneer in the use of a truth commission. The first of its kind in Latin America, CONADEP proved essential in creating a descriptive truth of what had occurred during the dictatorship, which generally unknown. According to Malamud (1996), the covert terror network “disarticulated” Argentine society. Criminal acts were not justified legally or admitted to, and so could not be refuted. Records of arrests or victims were not kept. Upper classes, in comparison with other countries such as Peru, were more likely targeted and the tactic of disappearance left society unable to form a resistance to or comprehension of what occurred during the dictatorship (May 2013, 501). Therefore, the first step in a multiple-decade long reconciliation process was establishing a set of facts.

CONADEP released its report, *Nunca Mas*, in 1984, based on the testimony of thousands of prisoners, family members of victims, and former government officials, among others. In multiple parts, the report details the repression, victims and role of the judiciary during military rule. CONADEP verified the existence of hundreds of clandestine detention centers throughout the country and confirmed the typical sequence of events in state terror: abduction, disappearance, torture.

However, according to May (2013), “Apart from the need for clarification of historical ‘facts’, traumatized societies also require more in order to become re-articulated, politically participatory, democratic societies. New governments must not only explain what happened, but they must condemn it and create new norms” (May 2013, 503). CONADEP created a descriptive record; however, it only provided general recommendations moving forward that it could not enforce alone.

The transitional justice experience took a swift turn in Argentina in 1986 and 1987 when Alfonsín and later Menem issued amnesties, pardons and reparations. Menem also stacked the Supreme Court with five new justices, effectively silencing future prosecution. According to Roht-Arriaza (2009), “During the early 1990s, the prevailing wisdom in Latin America was that human rights trials of powerful figures were not viable because of amnesty decrees as well as political risks to weak new democracies” (52). Amnesties, pardons and reparations are typically seen as less socially and politically divisive than trials, and easier to implement. However, the amnesties and pardons were controversial in Argentina, and many citizens continued to push for trials of former leaders and looked for legal loopholes and other indictments to bring. Many were hesitant to accept reparation payments, made into law in 1994, not wanting to discourage eventual prosecution, and the Mothers of the Plaza de Mayo rejected the payment outright, calling it hush money. However, 8,000 reparation payments were granted by 2004 (Robben 2012, 309-310)

Following the truth commission and original trials that had been quickly overturned by pardons in 1990, reparations and amnesties left the public largely dissatisfied. Even before Menem’s amnesty laws, many citizens did not receive a sense of justice from the first trial. In the 30th edition of *El Diario del Juicio*, a magazine published by media group Editorial Perfil throughout the trial, which immediately followed the sentencing, the headline on the front cover reads “*Por qué las condenas no fueron mayores?*” (Why weren’t the sentences longer?). Other military officials received sentences perceived to be too light, including another junta member, Orlando Agosti, who received 25 years in jail.

Moreover, members of the junta did not seem to show remorse during the trial. Videla submitted two statements to the court during his initial trial in which he denied the junta's responsibility for all of the disappearances and actions of individual officials and groups. According to an article in the 15th edition of *El Diario del Juicio*, "*Como podrá advertirse, la preocupación principal de Videla es resaltar que la Junta Militar no tenía responsabilidades en el planeamiento y conducción de la lucha antisubversiva.*" By not accepting culpability and receiving what some considered a light sentence, the first trial left many citizens wanting.

A turning point came at the close of 20th anniversary of the 1976 coup with mass demonstrations led by a new player on the justice scene: HIJOS, or Children for Identity and Justice Against Oblivion and Silence. HIJOS, comprised of the adult children of the disappeared, led mass demonstrations to accuse the same criminals of a crime that was previously unaddressed: baby snatching. With this new focus, *juicios por la verdad histórica* or historical trials formed in April 1998. During one such trial, Army Commander Balza described a standard procedure of separating children from abducted parents and giving them to military families (Robben 310). The *juicios* and resulting admissions renewed the call for justice, leading to the annulment of amnesty laws and resurgence of trials. A 2003 public opinion poll indicated that more than 65% of citizens wanted to repeal the amnesty laws passed under Alfonsín and Menem (Robben 2012).

Videla himself was arrested on June 9, 1998 on baby theft charges; however, the remaining amnesty laws and other legal questions delayed prosecution for several years. However, Robben notes, "The demand for the derogation of the amnesty laws had been embraced in 2003 by President Kirchner who argued that reconciliation could only be

achieved through accountability,” (311). Therefore, though the trial of an authoritarian leader was slow moving, the country remained committed to the trial and successfully developed the requisite institutions to try Videla. A lengthy experience with transitional justice mechanisms ultimately prepared Argentina for the final mechanism needed for reconciliation: the trial of a strongman.

Strength of Democratic Institutions

Over the course of the transitional experience, the Argentine public often clamored for justice that political institutions were not prepared to offer. During military rule, the Argentine judicial system more or less dissipated. Following the 1976 coup, in order to be confirmed, judges were tested for loyalty to the regime and the military’s goals of national reorganization. Prominent lawyers were disappeared, and there were no legal channels for citizens to protest an arrest or disappearance. According to the *Nunca Mas* report (1984), “La población llegó a sentir que era inútil recurrir al amparo judicial para preservar sus derechos esenciales,” (The population came to feel that it was useless to seek judicial protection for essential rights). Therefore, the newly democratic government had to restore a functional judiciary, as well as confidence in its worth and impartiality.

However, establishing a judicial system capable of trying high-ranking officials is a difficult process. Lutz and Reiger (2009) note that that other priorities in democratic transition can supersede trials, such as “maintaining order, placating a restive military or other armed fighters (especially those loyal to a potential defendant), demobilizing and reintegrating ex-combatants, or staving off economic collapse” (11). Furthermore,

“sometimes the infrastructure and capacity to stage complex, high-profile trials is lacking,” (11). However, Argentina engaged in a period of judicial and institutional reform both by moving toward an independent judiciary and strengthening the criminal justice system. Constitutional reform, as well as justice reform on an international level that established human rights norms, ensured that Videla’s second trial would be more definitive than the first, ending in a stiff sentence.

Role of Civil Society

Civil society played a major role in facilitating transitional justice efforts in Argentina due to the continued efforts of multiple vocal groups. These groups, most notably the *Madres* and *Abuelas de la Plaza de Mayo*, were driven to pursue justice by strong personal experiences and community ties. The first group of mothers of disappeared children formed in 1977 (Sikkink 2008, 4). The group met on a Thursday in the Plaza de Mayo (where they continue to meet today), in the center of several federal government buildings, demanding to know what happened to their missing children. One primary contribution of the Madres was that their protests drew continuous media and public attention, both domestically and abroad, despite efforts by the juntas to silence them.

The Madres also helped define the term disappearance, because it was not known previously as a repression tactic. For example, On December 10, 1977, *The Nation* published an open letter to the junta, created largely by the *Madres de la Plaza de Mayo*. Entitled “*Solo pedimos la verdad*”, the letter demanded to know “*si nuestros desaparecidos están vivos o muertos y donde están*” (if our disappeared are alive or dead

and where they are). The letter was signed by about 800 relatives of the disappeared. Multiple leaders of the organization were disappeared by the state to deter the letter's publication; however, the Madres continued with its publication as planned (Hernandez 2012). This letter demonstrates both the power of civil society groups, particularly those focused on family, and the demand in society for answers.

Following the transition to democracy, many rights groups pushed for “*juicio y castigo a todos los culpables*” (trial and punishment of all the guilty), showing a strong public desire for justice (Sikkink 2008, 6). Civil society provided valuable contributions to CONADEP by collecting witness testimonies and documents. Legal clinics also provided services to victims seeking to file charges against the government and individuals, and other private organizations provided counseling and exhumation work (Backer 2004 304).

Alfonsín's full stop and due obedience laws that had halted trials only increased civil society's efforts, though groups turned their attention to the children of the disappeared. The HIJOS held *escraches*, or demonstrations, outside the homes of known repressors to recall the need for justice (Sikkink 2008, 11). *Las Madres* and *Abuelas de la Plaza de Mayo* brought legal charges of kidnapping against former leaders. The Abuelas also created a National Genetic Data Bank with paternity blood banks and DNA banks. Of the 255 missing children cases the truth commission identified, the Abuelas resolved 51 (Backer 2003, 303).

Civil society groups, varied in mission and tactic, were particularly active in Argentina in comparison to other countries. Sikkink (2008) attributes this to the identity of the victims: most were urban, educated and relatively wealthy, so their relatives had

the resources to fight for answers after disappearance (Sikkink 2008, 20). However, after the initial trials, activists were dismayed at the lack of severe punishments given to the former junta leaders (Sikkink 2008, 22). This disappointment highlights the limitations of civil society organizations that lack legal power to provide complete justice and reconciliation. Many civil society groups in transitional countries in general are constrained by a lack of resources, leaders lost to violence, and weak organizational capacity (Backer 2003). However, civil society organizations helped facilitate the processes necessary for reconciliation in Argentina by contributing services and continuously raising awareness. These groups ensured that the push for justice would not be swept away, furthering the country on the path to a trial and reconciliation.

Summary:

Argentina underwent a lengthy but ultimately complete transitional justice experience, adopting several key mechanisms including a truth commission, amnesties, and trials. However, over the years, the Argentine public, who knew little about what occurred during the dictatorship, maintained a desire for truth and justice with the support of civil society organizations. Public opinion center Latinobarómetro records the highest degree of confidence in the judiciary in 2010 in Argentina for the years between 1995 and 2011. The years 2010 and 2011, in which Videla was jailed for life, also record the highest values of “image of progress” and “satisfaction with democracy” in the nation, illustrating a broad evolution in national confidence. The country certainly encountered major difficulties during its transitional experience, particularly in the economy;

however, the ultimate trial of Videla was critical in proving the institutional strength and societal commitment to close previous chapters of Argentine history.

Chile

Dictatorship and Historical Background:

On September 11, 1973, Augusto Pinochet led a coup against president Salvador Allende and then began to disappear leftists and those suspected of sympathizing with the Allende government. For the duration of Augusto Pinochet's 17-year rule, Chilean citizens at home and abroad suffered human rights abuses including torture and forced disappearance due to the infamous work of the *Dirección de Inteligencia Nacional* (DINA) and Operation Condor. Estimates place the number of killed or disappeared Chileans at more than 4,000 (Roht-Arriaza 2009, 78). In 1988, Pinochet unexpectedly lost a referendum to determine whether he would remain in power another eight years, leading to elections.

Chile's experience with human rights prosecution tested the bounds of international law. The Chilean government quickly admitted to the United Nations that torture had occurred, but Pinochet continued to enjoy immunity under a 1980 law that deemed him a senator for life (Waltz 2001). Prosecution of Pinochet and others within the regime stalled until a Spanish judge, Baltasar Garzón, became involved. In October 1998, Pinochet traveled to London for medical treatment and was quickly arrested by London's Metropolitan Police under a preliminary extradition request from Spain, a country that allows for prosecution under Universal Jurisdiction. In 2000, British high courts ruled

that Pinochet was medically unfit to stand trials; however, by this time, amnesty laws in Chile had been overturned by the Chilean Supreme Court (Waltz 2001). International attention stirred the Chilean public to push for justice, setting the stage for domestic trials.

Hundreds of lower level officials were tried, and Pinochet himself was tried multiple times, first for human rights abuses, but also on murder and corruption charges. While he was never punished with the severity of other dictators and only placed on house arrest, he was held publicly accountable for his actions. Pinochet suffered multiple strokes during his trials and died on December 10, 2006, which is, ironically, International Human Rights Day (Roht-Arriaza 2009 90).

Transitional Justice Mechanism Experience

The first democratically elected president, Patricio Aylwin, campaigned with the slogan “*Gana la Gente*” and sought to quickly close previous chapters of the country’s history with truth and justice for the people. Aylwin established the Rettig Commission six weeks after his 1990 inauguration based on the Argentine truth commission model. The eight-person commission required ideological balance and so four members came from the same ideological camp as Pinochet, which still enjoyed substantial political and popular support. The Rettig Commission was bound by a few important limitations. First, it was only able to investigate cases of the dead, which, unlike in Argentina, was a minority of the disappeared (May 2013, 504). The Commission made recommendations for reparations, but held no legal powers to summon witnesses or subpoena documents. The Commission was successful in compiling an archive of about 3,000 deaths and

disappearances the regime was responsible for; however, the military remained too influential and the threat of a coup was too strong to immediately pursue legal action on the report (Webber 2000, 48). The military rejected the report outright, citing inaccuracy and bias. Due to the lingering shadow of Pinochet and the tenuous political landscape, some, particularly the elite, did not want to pursue further transitional efforts, including trials; however, others continued to seek justice.

Beginning in the mid-1990s, charges were brought against some lower-level officials by family members of victims. In 1995, the Supreme Court upheld the sentence of 16 police officers for murder (Webber 2000, 48). Military groups responded to this rising threat of prosecution with intimidation and harassment, but cases continued to be filed. The first complaint filed against Pinochet himself came in January 1998 by Gladys Marín of the Chilean Communist Party for the disappearance of her husband and his colleagues (Roht-Arriaza 2009, 87). However, Pinochet was not tried until after his return from London.

The third democratic government after Pinochet capitalized on the declining power of the military to pursue greater justice measures for the public. A second truth commission, the National Commission on Political Imprisonment and Torture, also known as the Valech Commission, formed in 2003 under President Ricardo Lagos (May 2013, 505). This commission included survivors of torture and detention. It identified 1,132 imprisonment sites in the country and identified torture as a systematic practice during the Pinochet regime (Lira 2011, 94). Each of the branches of the armed forces accepted the report as fact, and affirmed that such acts must not happen again (Lira 2011, 95). The report moved beyond only the creation of a descriptive truth to providing

concrete policy recommendations. Upon completion of the report, President Lagos officially apologized to the people, saying,

"A partir de eso todos aquellos que sufrieron han recibido, no digo una reparación, han recibido una petición de perdón por parte del Estado, porque cada uno de estos proyectos legislativos implican entonces que el Estado de Chile reconoce lo que ocurrió, y a través de este proyecto intentan reparar el daño." (UPI Chilean News Service, 2004).

As a result, Chile passed legislation providing lifelong compensatory pension, health care, education and housing to 28,459 victims (May 2013, 506). Despite these advances, Pinochet and other high-ranking officials still lived comfortably, protected by immunity.

In 1996, Spanish lawyer Joan Garcés filed a complaint against Pinochet and other military officials in a Spanish federal court alleging genocide, terrorism, torture and disappearance. Judge Manuel García-Castellón accepted the complaint under Spain's universal jurisdiction law, which allows for prosecution of non-Spanish citizens for crimes committed outside of Spain (Roht-Arriaza 2009, 79). In March of 1998, Judge García-Castellón issued arrest warrants for 39 individuals, including Pinochet (80). In October 1998, another Spanish Judge, Baltasar Garzón, who was pursuing a related multi-national case about Operation Condor, asked British police to arrest Pinochet while he was in London.

A lengthy legal battle ensued to strip Pinochet of his head of state immunity and bring him to trial in Spain. On November 25, 1998, the UK House of Lords voted to allow Pinochet's extradition. Upon the announcement, Chilean exiles cheered, and celebrations sprung up in Santiago (Roht-Arriaza 2009, 84). According to Webber (2000), part of the legal team working to remove Pinochet's amnesty, following the decision to revoke amnesty and extradite Pinochet, "The atmosphere outside on St.

Margaret's Green was euphoric. People were singing, dancing, celebrating as it seems they had not celebrated for twenty-five years," (Webber 54). However, due to an undisclosed conflict of interest among one of the Lords, Pinochet underwent additional trials to determine if he could be extradited. Ultimately, the House of Lords did vote to extradite, but at this time Pinochet's health was failing, raising questions of whether he could stand trial. On March 2, 2000, British Home Secretary Jack Straw decided not to extradite Pinochet due to his poor health (Roht-Arriaza 87).

The Spanish trials spurred Chilean discussion of the past and demand for justice. According to Collins, Hite and Joignant in *The Politics of Memory in Chile* (2013), "Pinochet's arrest demanded a response, a public debate" (19). Pinochet's arrest gave birth to *The Clinic*, an underground satirical magazine that is now one of the bestselling in Chile, named after the British hospital where Pinochet was arrested. The first issue was published just days after Pinochet's arrest, and both signaling growing encouragement of trials and a general opening in Chilean society. In an editorial published in the ninth edition on October 14, 1999, founder Patricio Fernández wrote,

"Yo creo que el Clinic nace, en parte, como un síntoma del fin de una época y el comienzo de otra. Pienso, por decirlo de alguna forma, que la dictadura o sus emanaciones terminan cuando Pinochet cae preso en Londres... En ese momento, la imagen gigante, invulnerable, del dictador se convierte en una imagen humana, acusable, juzgable. Eso generó una gran baja y una gran caída del miedo y, por lo mismo, si al Clinic le fue bien y creció fue porque, de alguna manera, encarnó inmediatamente y antes que nadie esa sensación."

In a national survey conducted by Chilean public opinion group CERC (*El Centro de Estudios de la Realidad Contemporánea*) in September of 2000, the first year of the survey, a majority of citizens supported stripping Pinochet of his senator-for-life status.

61% of citizens agreed with this action by the Supreme Court, while 29% disagreed. In 2001, President Ricardo Lagos appointed several new judges, whose main task was to investigate disappearances, signaling a continued commitment to justice, despite Pinochet's failing health. However, the Chilean Supreme Court permanently closed the case on Pinochet in July of 2002 because of his dementia. Despite the repeated efforts of Judge Guzmán, trials stalled until Pinochet himself offered a breakthrough.

Pinochet gave an interview to Miami television station in which he called himself an "angel of democracy" who did nothing wrong. Judge Guzmán used this footage to show that Pinochet was in fact mentally fit for trial. Around the same time, U.S. agencies discovered that Pinochet held \$27 million in offshore accounts. With this discovery, remaining support for Pinochet evaporated because those who had accepted his wrongdoings claimed he was, if nothing else, honest. The discovery of corruption sent outrage through the public, and an even greater number clamored for his arrest. According to CERC, the percentage of people who viewed Pinochet as a dictator had climbed to 66% by 2006. In 2013, this number would reach 76% (CERC 2013). In August 26, 2004, the Chilean Supreme Court officially stripped his immunity, allowing human rights and tax evasion charges to proceed (Roht-Arriaza 2009, 90). In October, he was placed under house arrest. Though he died before prosecution was complete, Pinochet was ultimately held legally accountable both domestically and abroad.

Strength of Democratic Institutions

Chile's democratic transition differed immensely from that of Argentina. While general instability existed in the early days of Argentine democracy, the military left

power disgraced, and was not perceived as powerful or a threat to the new democracy. In Chile, however, the military maintained influence with a voice in government via the National Security Council (Webber 2000, 47). When Pinochet stepped down, one-third of the electorate still favored him, and the amnesty laws he put in place remained untouched for years (May 2013, 504). The following transitional governments were forced to walk a line between providing truth and acknowledging abuse to the public and upsetting the institutional structure and power balance with justice efforts. President Aylwin characterized this predicament in 1992 saying, “that we should address such a delicate matter by reconciling virtue of justice and virtue of good judgment, and once relevant personal responsibilities are defined, the time for forgiveness will arrive,” (Lira 2011).

According to Kim (2012), the power balance between old and new elites can affect human rights prosecutions immediately after transition, but does not have an effect later on. Kim notes that few prosecutions of officials for human rights abuse occurred within the first four years of democratization. These cases of immediate human rights trials fit with the traditionally accepted power balance model, which states that a new government is more likely to prosecute human rights abuse if the power of old elites has been undermined during democratic transition (Kim 2012, 307). However, Kim argues that the power balance model is only partially true because it does not hold up years after transition because countries, including Chile, were able to institute domestic trials. Despite Pinochet retaining power in Chile immediately following transition, after a protracted international experience and institutional growth, trials would occur domestically.

Over time, international trials spurred slow institutional development in Chile. It became a matter of national pride for Pinochet to be tried at home, and judges became more assertive in pursuing human rights cases (Roht-Arriaza 2009, 90). Beginning in 1998, Chile's Senate Commission on Human Rights, Nationality and Citizenship began to investigate cases of disappearances and deaths. With the help of various human rights organizations, the committee published a report in 2000 entitled the Collection of Records for the Detained and Disappeared. The report detailed 952 cases of detained and disappeared citizens and recommended actions to the executive, including the creation of a DNA bank and process for identification of remains (Lira 2011, 89).

This report coincided with the meeting of a Roundtable Discussion on Human Rights from 1999 to 2000. The roundtable gathered civil society leaders, lawyers and representatives of the armed forces to discuss the situation of the detained and disappeared. During the roundtable, the armed forces agreed to collect information about the disappeared, which was a major goal of rights activists (90). The roundtable also confirmed the Senate's report, and it was passed on to the Supreme Court. As a direct result, the Court appointed nine exclusive judges and 51 special judges to investigate 114 cases of disappeared (Lira 2011, 112).

While previous administrations sought reconciliation, the Lagos administration was the first to acknowledge justice as the key measure missing in pursuit of reconciliation. In his response to the Valech Commission report entitled "No Tomorrow Without Yesterday", President Lagos said in 2003, "We need to move faster in the healing of our wounds, walk through the roads we have taken wisely and tenaciously: the road to the Courts of Justice and the rule of law, with no exceptions," (Lira 2011, 93).

The government established several commissions and groups outside of its initial two truth commissions. The Human Rights Program of the Ministry of the Interior formed in 1997 (Lira 2011, 105). The Program provided logistical and documentary support in investigations, served as a party in hundreds of rights trials, and expanded the pension program. The second mission of the program was to encourage cultural and symbolic action promoting historical truth and memory. 134 public memory sites existed by 2003, and this number doubled by 2009 (107).

Over time, institutions strengthened in each of the branches of the Chilean government. The executive focused on truth finding, reparations policies and building memorial sites, while the judiciary prepared for domestic trials. The international justice community and civil society groups continuously encouraged these slow-moving reform efforts, which culminated in Pinochet's trial.

Role of Civil Society

Civil society organizations played a crucial role in pursuing justice efforts and facilitating international legal efforts. Similar to Argentina, family of the disappeared proved essential in continuously pushing first for answers on the location of relatives and then for justice. The Association of Families of the Detained and Disappeared was a key player in the international trials. Leaders collected thousands of testimonies at the Spanish embassy in Santiago to use in trial overseas, and some paid for their own travel overseas to testify (Roht-Arriaza 2009, 80). Chilean exiles in Europe also played a major role in trials and serving as a link between domestic groups and international judicial

efforts (Roht-Arriaza 92). Civil groups also served similar functions of arranging witnesses and testimony in domestic trials.

Civil society leaders also participated in discussion of human rights reform, such as the 1999 Roundtable Discussion on Human Rights. Roht-Arriaza (2009) says of the discussions, “ The human rights lawyers and civil society wanted an apology and a commitment to turn over the military’s information on the disappeared. The military wanted trials and investigations to end.” Due to this tension, the powerful and vocal Association of Families of Detained and Disappeared refused to participate in the roundtable (Lira 2011, 91). However, the Roundtable resulted in important concessions from the military in acknowledging wrongdoing and policy proposals.

Summary

A general perception of progress prevailed in Chile during Pinochet’s trial. A CERC poll of citizens’ view of the general evolution of Chile from 1988 to 2006 indicates a greater appearance of progress during Pinochet’s domestic trial. The smallest percentage of the population said the country was progressing in 2001 (23%). This number shoots back up, reaching a high in 2004 with 64%. (See Table B). At this time, 3% of the population said Chile was regressing, which is the lowest percentage since the transition to democracy. Of course, it is impossible to ascribe such a broad question to one factor, such as the domestic trial of Pinochet. However, this poll indicates a more positive image among Chilean society that is likely due to a confluence of factors, including those that allowed for a complete transitional justice experience, culminating in Pinochet’s accountability.

In 2008, a primetime television drama called *Los 80* premiered on Canal 13, depicting the life of a middle class family under the dictatorship of Pinochet. In 2011, another popular drama prepared called *Los Archivos del Cardenal*, detailing the work of human rights activists during the dictatorship. Both shows were very popular and garnered several accolades (Collins, Hite and Joignant 2013, 8). Just a decade earlier, the image of Pinochet was contentious, and society was divided based not only on how to view his regime but also what to do with him after the regime's end. This point, where the regime is a part of popular culture that citizens invite into their homes on Sunday nights, is a radical departure from the 1990s, and is emblematic of a more complete transitional experience. Due to several factors culminating in the trial of a strongman, the Chilean public today is more reconciled with both its government and history.

Peru

Historical Context and Dictatorship

Alberto Fujimori was elected in 1990 during a time of violence and crisis in Peru. Fujimori's government resorted to state terror to combat insurgent groups causing widespread terror including El Sendero Luminoso and the Túpac Amaru Revolutionary Movement (MRTA). Although democratically elected, Fujimori turned authoritarian with an autogolpe (self-coup) in 1992 in which he seized control of all branches of government (Burt 2009). The Fujimori government did capture the leader of Shining Path, but also disappeared and tortured citizens unaffiliated with the terrorist group in its quest for stability. The Peruvian Truth and Reconciliation Commission estimates that 69,280 were killed or disappeared from 1980 to 2000 (Gamarra 2009, 95). Gamarra

considers that of these victims, the Sendero Luminoso was responsible for about half, and the second half was killed by the state (95). Particularly during the 1980s, repression was indiscriminate in rural areas. Later, repression became systematic and more selective as it operated within the judicial system. Trials and tribunals with hooded judges and no constitutional guarantees handed down strict sentences for terrorism charges (Gamarra 2006, 41). Although the justice system operated formally, it was used for repression against those affiliated with political opposition.

At first, Fujimori was tolerated in Peru by many and celebrated by some for capturing Sendero Luminoso leaders and reinstating order. However, Fujimori also orchestrated a massive network of corruption and arms trade during his reign. Public opinion for the leader soured as videos showing Fujimori and other officials trading jobs for money and influence leaked to the public. Some groups estimate that \$1.5 billion was stolen from the Peruvian state during the dictatorship (Gamarra 2009, 98). His most recent conviction on corruption charges came in January 2015, for dedication millions of public funds to tabloids that disgraced his political opponents (Associated Press 2015). Fujimori sought an illegal third term in 2000, but was disgraced by corruption allegations. He fled to Japan and announced his resignation.

Transitional Justice Experience

Peru follows a similar model to the one established by Argentina of a truth commission paving the way for trials. The democratic transition government of Valentín Paniagua first needed to confront the 1995 amnesty laws passed by Fujimori for all military, government and police officials accused of human rights abuse between 1980

and 1995 (Gamarra 2009, 96). The Peruvian government was quick to denounce corruption in the previous regime but did not initially acknowledge human rights abuse. For some, Fujimori remained the man that ended terrorism, even though security came at a high cost. However, once the state's corruption also came to light, even former supporters of the regime embraced growing international and domestic clamor for justice (Gamarra 2009, 99). The Inter-American Court denounced the state as guilty of human rights violations and overturned the 1995 self-amnesty laws passed by the Fujimori regime, mandating that the state "determine the identity of those responsible for the human rights violations referred to in this judgment and also publish the results of this investigation and punish those responsible," (Gamarra 2009, 101).

In order to carry out these orders, the Truth and Reconciliation Commission (CVR) was created in 2001 at the conclusion of President Paniagua's term. The mandate of the Commission was to "clarify the process, the facts and the responsibilities of the terrorist violence and the violation of human rights produced since May 1980 until November 2000, attributable both to the terrorist organizations and to State..." (Arce 2010, 29). The CVR completed its investigation in 2003 and unveiled the connection between corruption and human rights abuse in the state, particularly in rural areas of the nation.

Opinions about the investigation varied. Though the military was largely discredited, 42 former generals responded with a statement rejecting the report, saying, "It is false that the Armed Forces acted recurring to systematic practices in violation of human rights" (Arce 33). The National Confederation of Private Business Institutions (CONFIEP) also rejected the report, citing bias and calling the report "neither history nor truth" (Arce 35). On the other hand, President Alejandro Toledo made an official public

response to the report on November 23, 2003. He apologized to victims on behalf of the state and said, “In a conflict of this nature, some members of the Armed Forces incurred in painful excesses. It shall be the Prosecutor’s Office and the Judiciary to dictate justice on these matters, without fostering impunity or abuse” (Arce 36). Responses to the work of the CVR illustrate the divide in Peruvian government between the military and new government.

By establishing a descriptive record, the CRV report paved the way for trials to begin. While some considered the truth commission sufficient, others favored retributive justice. As CVR President Salomon Lerner noted in 2006,

We said: it is necessary to link truth and reconciliation, but truth cannot be achieved automatically, and truth cannot carry us automatically to reconciliation. There has to be a mediation to achieve reconciliation, that would be not the sufficient but certainly the necessary condition for reconciliation, and the necessary condition for reconciliation is justice.
(Burt 393)

Charges were filed against many lower level military members, but trials often dragged on for several years due to a lack of resources in the human rights courts. The first conviction came in 2006, giving momentum to other cases, including the case against Fujimori (Burt 395). A key aspect of the CVR report was that it named Fujimori individually responsible for the work of the Colina Group, a state death squad responsible for massacres including the Barrios Altos and La Cantuta massacres. The report also named Fujimori in some of the 43 cases it recommended for prosecution (Gamarra 2009, 99). In 2004, a public prosecutor requested 30 years imprisonment for Fujimori as well as \$30 million in reparations. However, prosecution could not proceed because Fujimori was still in Japan.

With domestic and international judicial and human rights groups mobilized, Fujimori was arrested when he returned to South America from Japan in 2005. Fujimori had traveled from Japan to Chile, hoping to influence the upcoming elections in Peru without facing the charges against him at home (Gamarra 2009, 103). Peru requested Fujimori's extradition for twelve cases in January of 2006. However, the extradition decision process was slow moving, and Fujimori enjoyed provisional freedom in Chile until the Supreme Court of Chile eventually agreed to extradite him to Peru in 2007 for violation of human rights and corruption charges (Gamarra 2009, 104). The Court also rejected Fujimori's appeal for former head of state immunity, representing a turning point in international justice efforts. According to polling company CPI, after his return to Peru, 77 percent of Lima residents supported Fujimori's extradition and trial (Laplante and Phenicie 2010). Fujimori's trial consisted of more than 160 trial sessions, 80 witnesses and it was broadcasted live.

This broadcast turned dramatic when Fujimori made a lengthy statement in his defense, saying he preserved the rights of millions of Peruvians and concluded by shouting "*Soy inocente*". This speech, years after his regime ended, put Fujimori's identity and legacy back in question (Laplante and Phenicie, 2010). Public opinion differed on how to remember Fujimori, either as a dictator or savior in a nation ravaged by terrorism. Differing perspectives on Fujimori reflected, to some extent, divisions among the Peruvian population. Most victims of state violence were from rural areas and spoke a language other than Spanish (Gamarra 2009, 95). 40% of crimes took place in the Ayacucho region, which is one of the poorest (Cano and Ninaquispe 2006, 47). Therefore, the urban sector, which had greater access to state resources and was less

familiar with the violence that occurred elsewhere in the nation, likely had a different opinion of the state and Fujimori than those who lost lives, relatives or land (Cano and Ninaquispe 2006).

However, despite differences in the Peruvian population, the corruption of the Fujimori regime was universally seen as negative. In a 2002 national survey by Proética, the Peruvian branch of Transparency International, 63% of respondents identified corruption as a very serious problem. In the same year, 96% of respondents said corruption was a very serious or serious problem. In the 2003 survey, 49% identified Fujimori's regime as the most corrupt. 21% named the government of Alan Garcia as the most corrupt, and 20% said Toledo (Proética). Particularly as Peru faced a weak economy during its democratic transition, the public did not respond well to corruption. Therefore, even though public opinion divided over some aspects of Fujimori's legacy, all were united in resenting corruption.

Despite some societal discord, Fujimori's trial laid the facts against him, affirming that he was individually responsible for both human rights abuse and corruption. In 2009, the newly created Special Criminal Court of Peru sentenced Fujimori to 25 years for aggravated assault, homicide and kidnapping (Burt 2009). At the time, 70% of all Peruvians thought Fujimori was guilty; however, 27% thought he should have been acquitted (Laplante and Phenicie, 2010.) Though the trial and Fujimori's behavior during it did rekindle public controversy, the trial ultimately offered a definitive, state-backed view of the former leader. Public opinion polls also indicate a lack of public acceptance of the use of force in crisis. About 60% of the population said the president should not use force in crisis in times of difficulty (Latinobarómetro). This represents a departure

from a previous image of Fujimori, who was originally celebrated for bringing order, even though it came at a cost. Fujimori is still serving his original 25-year sentence and is reportedly in ill health.

Strength of Democratic Institutions

The development of democratic institutions and their support for transitional justice mechanisms varies in Peru, with some branches supporting reform more than others. These differences are linked to the remaining influence of Fujimori's party and the military; for example, the military, which remained a powerful force in the nation after transition, was able to slow and block justice efforts from more responsive branches throughout the 2000s, including the judiciary. This situation will be even more evident in the case of Paraguay, where the former dictator's party remained solidly in power for several years.

The Peruvian judiciary, formerly completely dominated by Fujimori's party, needed to develop into an independent body in order to initiate the corruption and human rights trials recommended by the CVR. The CVR recommended the establishment of a separate legal subsystem to handle human rights cases (Cano and Ninaquispe 47). Judicial reform was a difficult process; in Proética's 2002 survey, respondents identified the national judiciary as the most corrupt institution in the nation, followed by the national police (Proética). In 2004, the Executive Council of the Judicial Branch renamed the nation's terrorism court the National Criminal Court and expanded its jurisdiction to include crimes against humanity and human rights crimes. The council also named Supra-Provincial Criminal Courts to serve regionally on human rights (Gamarra 2006,

78). The courts have rejected several appeals for amnesty, statute of limitations and double jeopardy, showing a commitment to justice (79).

The Constitutional Court also embraced key reforms based on recommendations from the CVR and international human rights law. In 2004, the Court ruled on multiple cases of disappearances and affirmed the right to truth and that no statute of limitations applies in human rights cases. In a verdict, the Court wrote, “Even if a great deal of time has passed since the offense was committed, the individuals directly or indirectly affected by a crime of this magnitude always have a right to know who did it, the date and place where it was committed, how it was done, why the person was executed and where his remains are, among other things” (Gamarra 2006, 83). The Court also repeatedly ruled that the Ministry of Public Prosecution must initiate investigations into disappearances.

Institutional reform has been slower in the branches where the military has enjoyed greater influence. According to annual public opinion surveys from Latinobarómetro, the military has consistently been named the second most powerful institution in the nation, behind large corporations, from 1995 to 2005 (*Quién tiene más poder? Primera mención*). Though the percentage who consider the military the most powerful group dropped from 41% in 2000 to 17% in 2005, the military was still mentioned second-most frequently, showing its public perception of power. The military controlled some human rights cases against military officials, despite a Constitutional Court ruling prohibiting the military trying human rights cases. The military maintaining control of these trials shows continued support for impunity within the military and weakness in some democratic institutions (Gamarra 2006, 85). In 2006, the state decided to sponsor legal support for military officials on trial for human rights abuse (Arce 2010).

This outraged human rights groups and other branches of government who had advocated for reparation plans, originally passed in 2005. The reparation plans were inefficient and incomprehensive because they were denied necessary financial resources. For example, victims affiliated with subversive groups cannot receive payments or compensatory services, even if they had been tortured (Correa 2013, 6).

In September 2010, the legislature proposed Legislative Decree 1097 dealing with procedures for investigations of human rights abuses. This decree included a few key military-friendly components. First, it limited investigation of rights abuse to three years, or the case would be thrown out. For most cases being investigated, three years would have already expired, so the decree was more of a veiled amnesty than policy reform. The decree also specified that the national crimes against humanity standards passed in 2003 were only legally binding after that time, so crimes prosecuted after 2003 were not crimes against humanity. They were to be prosecuted common crimes, and therefore subject to statutory limitations that crimes against humanity are not (Gamarra 2006). This decree was repealed after a public uproar from domestic and international organizations and other government institutions, including the Ministry of Public Prosecution. While its proposal signals the continued influence of the military, its repeal in 2010 shows a drive for human rights transparency and no tolerance for amnesty. Therefore, the human rights climate had changed by 2010, after Fujimori's trial, and the public and parts of the government would not tolerate leniency in handling human rights abuse.

Role of Civil Society

Peruvian civil society largely served to inspire and support efforts of the truth commission, extradition process and criminal trials. Before the truth commission was founded, civil society groups sent petitions to human rights groups internationally, including Amnesty International and the Inter-American Council on Human Rights, which received more than 200 petitions (Cano and Ninaquispe 40). Many of these were filed by the *Coordinadora Nacional de Derechos Humanos*, an umbrella group of human rights organizations formed in 1985 (Burt 2009, 389). The *Coordinadora* drew attention to issues of torture and disappearance during Fujimori's rule, and campaigned heavily for a truth commission after its end. The documents submitted to the international bodies were transferred to the CVR once it was established in 2001, so the organizations provided a substantial bank of information to the Commission.

Human rights groups participated further in the truth commission by attending national audiences around the country to express grievances and file testimonies. Cano and Ninaquispe (2006) quote a victim of political violence, Abraham Fernandez, at one such hearing in Huanta in 2002 as saying, "Hopefully in ten or fifteen years we too will be seen as Peruvians" (47). This quote, which the authors call indicative of the feelings of many in the Ayacucho region at the time, demonstrates the view that the indigenous, rural populations who felt they had been subjugated to a status below other citizens. It also demonstrates an important role of such hearings, which allowed citizens to share their experiences, which can facilitate reconciliation.

Similar to Argentina and Chile, family members of victims kept the demand for justice high through protests and a continuous push for reparations. One of the first human rights groups formed in Peru was *La Asociación Nacional de Familiares de*

Secuestrados, Detenidos y Desaparecidos (ANFASEP), which cites as a goal on its website, “*buscar la verdad, la justicia y reparación, son bases para la reconciliación y paz interno del país*” (ANFASEP 2013). Based in Ayacucho, many of the original members of ANFASEP were older, Quechua-speaking women. During the violence, the group provided emergency services while holding peace marches and vigils and was condemned by Fujimori as aligned with terrorists. ANFASEP’s founder, Angelica Mendoza, was called a “Shining Path Ambassador” during a trip to Europe sponsored by Amnesty International (Feldman 2012, 492). ANFASEP and other groups were crucial in first drawing attention to human rights abuses during the regime and then demanding justice after the transition.

Civil society has been the main driving force behind the creation of memory sites in Peru. The government does not have an official policy considering national memory. *El Movimiento Ciudadano Para Que No Se Repita* registered 101 memory sites in 2009. These sites recognize all victims of violence between 1980 and 2000, not only from the Fujimori regime. Organizations proposed the creation of a national museum to recognize victims; however, the government initially rejected a donation from the German government to fund the museum in 2009. Civil society and international pressure forced the Peruvian government to concede, and, after much delay, the museum opened in 2014 (Correa 2013, 25). A coalition of rights organizations also created a national monument in Lima to remember victims (Correa 2013, 24). The arts and literary scene also expanded, both using and supplementing information from the official truth commission to promote reconciliation (Cobian and Reategui 2011, 250).

In general, however, civil society organizations did not play as strong a role in the transition experience as they did in other countries due to weak organizational structures and social exclusion among groups along ethnic lines (Cobian and Reategui 2011, 256). Therefore, though memory projects driven by civil society likely had an impact on an individual level, civil society organizations did not carry the same weight they did in other transitional nations.

Summary

Fujimori's extradition and trial represented a monumental test of Peru's strength post-transition, and his conviction notes success. Days after Fujimori's conviction, a column by Augusto Álvarez Rodrich in *La Republica* proclaimed, "algunas cosas mejoran en el país." The column indicated that Fujimori's conviction allowed greater optimism in the country in all fields, from the judiciary to the economy. Rodrich says that the trial proves, "*que la justicia peruana puede, si se lo propone, realizar con éxito procesos que son muy complejos, cargados de tensión y que deben avanzar por vías plagadas de cáscaras de plátanos*" (Rodrich 2009).

Peru was far from flawless after the trial, with persisting corruption issues and with delays in some transitional mechanisms such as the reparations program. Nonetheless, Fujimori's trial affirmed institutional power in Peru and legitimized rule of law in Peru (Burt 2011, 403). Other trials have followed, including the 2011 extradition and trial of a former military official Telmo Hurtado. Hurtado accepted guilt in 31 of 69 murder cases brought against him for a massacre in Accomarca, Ayacucho (*El Comercio*

2012). The growth in institutional strength that facilitated such trials has allowed the Peruvian people to approach reconciliation with the government.

In some ways, Peru seems an unlikely place for a trial of a strongman to occur (Burt 2009, 385). Given Fujimori's enduring popularity and the corruption and institutional weakness inherited following the democratic transition, Fujimori's trial and successful sentencing are all the more noteworthy. However, Peru represents a fairly comprehensive, though not complete, transitional justice experience, moving from truth commission to domestic trial of a strongman. These efforts were spurred by international involvement, particularly from the Inter-American Court, as well as by civil society groups and institutional reform.

Paraguay

Historical Context and Dictatorship:

Alfredo Stroessner held the longest unbroken rule in South America with a 35-year dictatorship spanning from 1954 to 1989. Systematic repression defined his rule, with rural villages and indigenous groups as the main targets. The drug and arms trade flourished, and Stroessner also worked as part of Operation Condor, disappearing subversives in Paraguay and abroad. Stroessner's repressive regime operated differently than that of his neighbors, and did not rely on secrecy or structures separate from the state. Instead, the visible police, military, and government structures were the repressive structures (Villa 2011). Stroessner was ousted in a coup in 1989 and fled to Brazil, where he died in 2006. His replacement, General Andrés Rodríguez, had served as second in

command in the Army, setting the precedent of continuity and single party dominance even after Stroessner (Roett 1989).

“Anivehaguaiko” is a familiar Guaraní expression in Paraguay meaning “so that it does not repeat.” This phrase exemplifies a desire for reform, but contrasts with the majority of the Paraguayan transitional experience, which has favored continuity. However, a break came in 1992 when judges discovered piles of documents and registries pertaining to actions and disappearances during the dictatorship known as the Terror Archives. This information encouraged some to push for charges against Stroessner and related officials; however, he was never officially extradited from Brazil and brought to justice before his death. Stroessner was indicted for torture and disappearances in 2000 and 2003, but the Brazilian government ignored requests for extradition from Brazilian NGOs and judges in both Paraguay and Argentina, so he did not face justice (Roht-Arriaza 2009, 57).

Due to the instability of democratic institutions and the influence of former officials in the new government, support for trials of the former regime during the democratic transition remained weak. Instead, the major transitional justice mechanism at work was a truth commission, supplemented by memory projects. The Paraguayan situation differs from other nations because even though the strongman figure was removed from power, his political party remained. Though the Colorado Party divided into multiple camps, it retained power until 2008, and vestiges of authoritarianism remained (Villa 2011). Corruption also remained a significant problem, both after transition and presently. According to annual public opinion polls, 67% saw little or no progress in reducing corruption in 2004. In 2007, this number reached 76%. It dropped to 55% in 2009, but

jumped again to 78% in 2013 (Latinobarómetro). Therefore, despite the end of Stroessner's rule, the political situation in Paraguay has remained a difficult place for reform.

Transitional Justice Experience:

Though the movement for justice in Paraguay has been weak due to institutional factors, the transitional nation did pursue truth. Specifically, the discovery of the Terror Archives in 1992 forced Paraguay to confront actions taken during the Stroessner regime by providing documentation of its abuses. After being blocked repeatedly by the executive branch and Supreme Court, a truth commission was eventually mandated by the Paraguayan parliament on October 16, 2003. La Comisión de Verdad y Justicia (Commission on Truth and Justice, CVJ), comprised of nine citizens, was tasked with “investigating facts that constitute or could constitute human rights abuses” (translated) and making recommendations on further action. With the slogan, “whoever forgets repeats,” eight public hearings were held, including two internationally, to gather testimony and information from victims (Villa 209).

The Commission's report is extensive and broken into eight volumes. The Commission collected 2,059 testimonies and ultimately reported 19,862 cases of arbitrary detention, 18,722 cases of torture and a total of 128,000 victims. The work of the Commission also included the search for *desaparecidos* and exhumations, with the assistance of the *Equipo Argentino de Antropología Forense* (CVJ, 2008). The report mentions 447 perpetrators by first and last name (Villa 220).

The report also listed select formal complaints in order to initiate prosecution of a few individuals. According to the report, the Commission sought, “*justicia y no solo una*

reparación moral sino también judicial, penal y civil, basados en una correcta interpretación de la Ley” (CVJ 2008, 37). However, the report did not hold legal power, and charges did not proceed. However, it implied the possibility for prosecution, as well as a desire to hold individuals accountable. In April 2006, the Commission’s report stated that Stroessner was personally responsible for sixty human rights violations during the his time in power (U.S. Institute of Peace). These cases were sent to Brazil, but prosecution did not move forward (Stabili 2012, 153). The Commission lost its funding in 2008, and investigation stopped.

A final report, which detailed 178 recommendations, was presented to Paraguayan president Fernando Lugo on August 28, 2008. Lugo, who was the first president not to come from the Colorado party in 61 years, apologized on behalf of the state, and spoke optimistically on the pursuit of justice:

La feroz dictadura que nunca más debe retornar en Paraguay mora aquí en estos documentos, que no son de manera alguna un continente del pasado, sino la interpelación mas viva hacia un presente de verdad y justicia. (Lugo 2008).

2008 also represented a peak in positive public opinion of the government and nation in Paraguay (See Table C). In 2008, 84% of the population said they had much or some confidence in the government. In years prior, the highest percentage with confidence in the government was 38% in 2004 (Latinobarómetro). This spike in confidence is likely due to a confluence of factors: 2008 was a landmark year in the election of President Lugo, who represented a coalition called the Patriotic Alliance for Change, which took a stronger stance on human rights (Abente-Brun 2009). Previously, the people were anxious for a change from the Colorado Party. Latinobarómetro records

the lowest degree of satisfaction with democracy immediately before the 2008 elections, and a higher degree of satisfaction in 2009. Paraguay had also enjoyed steady economic growth up until 2008 (World Bank). But the positive public opinion is most likely also related to the positive advances in Paraguayan transitional justice efforts.

Transitional justice efforts by the government did not promote justice, and instead focused on promoting the report after its release. The General Directorate of Truth, Justice and Reparation (DGVJR) of the Ombudsman Office of Paraguay formed in January of 2009 to respond to the recommendations of the report (Villa 2011, 224). However, progress has been modest at best, and many recommendations remain unaddressed. Although the DGVJR filed complaints of human rights abuse based on the Commission's report, the Prosecutors Office did not file formal charges (Villa 224). Further transitional justice efforts have largely focused on historical awareness and memory projects such as marches and museums. The government made efforts to disseminate the final report of the truth commission with memory events, the publication of a book, and an executive decree declaring the report of national interest (Villa 2011, 224).

In 2011, the DGVJR launched a virtual museum *MEVES, Memoria y Justicia*, with financial support from the European Union. MEVES details the history of the Stroessner regime and highlights the final truth commission report. It also includes many video testimonials from victims, and provides a link for individuals to record their own testimonies (MEVES). The museum also includes a section for educators dedicated to teaching about Paraguayan history, which relates to another government initiative to spread awareness of the past. Furthermore, the Ministry of Education and Culture crafted

an elementary school course entitled “Authoritarianism in the recent history of Paraguay” (Villa 2011, 225). These advances illustrate a willingness in the population and government to confront the past.

However, other mechanisms including trials are not frequent or successful in Paraguay due to political divisions, weakness in institutions and a lack of resources. Therefore, although the government put forth an effort to promote truth, it has not yet faced justice, which is crucial to reconciliation.

Democratic Institutions:

Due to the length of the Stroessner regime, at the time of transition, democratic institutions had not operated independently in decades. The memory of democracy was distant, and so, Paraguay had much ground to overcome in building institutions back to a level of responsiveness where the trial of a strongman could be possible. While institutional reform has been slow in Paraguay, the reforms it has made should not be disregarded.

The Stroessner regime operated under a veil of democracy, dominated by one party with all others in implicit agreement to continuously vote Stroessner to office. Following his removal, many of the same political players remained on the scene, promoting a general perception of status quo (Stabili 2012, 143). The greatest institutional gain came in the processing of the Terror Archives. In 1993, the Supreme Court established the *Centro de Documentación y Archivo para la Defensa de los Derechos Humanos* (CDyA), charged with compiling a historic record and data bank to be used in legal processes (Stabili 2012, 146). The online data bank includes

approximately 60,000 documents, and the Center also opened as a museum for remembrance and education in 1994 (CDyA).

As previously stated, the General Directorate of Truth, Justice and Reparation formed following the release of the truth commission report and initially encouraged the pursuit of trials. However, domestic trials of abuses during the Stroessner era never came to fruition due to corruption and political interference. The most recent human rights report from the U.S. State Department identifies impunity in the judicial sector as the greatest human rights obstacle in Paraguay. The report states, “The constitution provides for an independent judiciary; however, undue external influence seriously compromised that independence. Politicians and interested parties routinely attempted to influence investigations and pressure judges and prosecutors” (U.S. Dept. of State, 2013). This statement illustrates the lack of reform in the Paraguayan judiciary since transition. Prosecution of human rights abuses occurring after the end of the Stroessner regime have moved slowly, leaving little possibility of addressing previous abuses.

For some, Paraguay is not a democracy at all, but rather a semi-authoritarian state. It has some democratic institutions such as free and fair elections, but winning politicians continue the tradition of populist and corrupt leadership, dominated by the Colorado party with military and big business backing (Sondrol 2007, 60). According to Sondrol (2007), “The transition was part of a strategy, orchestrated by the traditionalist faction of the Colorado Party and military allies, to liberalize Paraguayan politics in a limited fashion, certainly ending the personality cult and *continuismo* of Stroessner but not to pursue a genuinely democratic political outcome” (54). Despite the development of some

civil society groups and political parties, the masses are not integrated politically (Sondrol 2007).

Corruption also remains a persistent problem. Transparency International ranked Paraguay 150th in the world in 2014, receiving a score of 24 of 100 in the Corruption Perception Index with 100 meaning very clean (Transparency International). The current president, Horacio Cartes, was elected in 2013 after former President Lugo was impeached in 2012, in what many have referred to as a legislative coup (Wallenfeldt 2015). This political incident, as well as the return of the Colorado party to office with President Cartes, illustrates weakness in Paraguayan democratic institutions and a lack of influence from political outsiders in the democracy.

Role of Civil Society:

Due to the appearance of legality portrayed by the Stroessner regime internationally, civil society and international actors represented some of the few voices challenging and denouncing the regime. As seen in other nations, relatives of victims played a major role, particularly in the rural areas where violence predominantly occurred. The National Movement of Victims of the Stroessner Regime (MNV) and the Association of Relatives of Disappeared Detainees of Paraguay (FADDAPY) were some of the first groups to raise awareness of illegal detentions and torture (Villa 2011, 213). These groups encouraged the creation of a truth commission, and encouraged the filing of statements for it.

Churches also played a role in forming civilian organizations. In 1976, three churches formed the *Comité de Iglesias para Ayuda de Emergencia*, a NGO designed to

promote human rights. With the support of international organizations including the United Nations, the CIPAE systematically documented human rights abuses in the nation, eventually releasing a truth commission report in 2000 called *Paraguay: Nunca Más* (Stabili 2012, 141). The church of the province of Misiones also produced a report, documenting torture particularly in the rural areas of the country. The state did not respond to these reports; however, the documentation of abuse alerted the international community, particularly the U.S. government, who backed the Stroessner regime, that certain aspects of the regime could not be ignored. Stroessner was soon unseated in a military coup; however, he quickly left for Brazil to live out his life in comfort.

Summary:

After Stroessner's death in Brazil in 2006, senators of the Colorado party requested an official tribute ceremony for when his body was returned home. President Duarte rejected the request, but senators met anyway to honor Stroessner (Stabili 2012, 154). This ceremony illustrates the power of Stroessner's legacy in the Paraguayan government, even after his death.

Paraguay remains institutionally underdeveloped, crippled by a lagging economy. At the time of Stroessner's death August 16, 2006, 60% of Paraguayans lived below the poverty line (Stabili 155). According to public opinion records from Latinobarómetro in 2006, only 32% of the population considered democracy favorable to another form of government, and only 31% of the population agreed that they would not support a military government.

However, there are signs of slow change. In 2011, the most recent polling year, 52% said they would not support a military government under any circumstance. This number is slightly higher in Peru at 54%, and jumps to 73% in both Argentina and Chile in the same year. Few are satisfied with the democracy, but when asked to rank development of democracy on a scale with 1 as not democratic and 10 as completely democratic, the average rank increased from 3.9 in 2006 to 5.7 in 2013 (Latinobarómetro). Therefore, improvement in democratic institutions is visible, though improvement moved too slowly for domestic trials to occur.

Today, Paraguay is experiencing greater economic growth, with GDP growing at 14.2% in 2013 and 4% in 2014, indicating a brighter outlook for the nation (World Bank). However, corruption lingers under the shadow of a lengthy dictatorship, slow democratic transition and incomplete transitional justice experience. Despite the work of the truth commission and memorial projects, Paraguayans did not receive justice for human rights abuses, ensuring that the dictatorship's legacy would continue.

V.) Conclusion:

This thesis aims to explore the relationship between a human rights trial and reconciliation, a concept that is fluid, subjective, and difficult to measure. Therefore, quantifying reconciliation and ascribing it to one particular act or event is impossible. However, I suggest that the final step before reconciliation can occur is the trial of a strongman figure. The trial of a strongman leads to reconciliation through the process of truth telling, establishment of a historical record and psychological benefits of individual justice. Furthermore, reconciliation is also achieved due to the factors that make the trial

possible—namely, experience with other transitional justice mechanisms, development of democratic institutions and strong civil society organizations.

These factors coalesce into the trial of a strongman, which leads to the greatest level of reconciliation, as seen in the cases of Argentina, Chile and Peru. Paraguay, conversely, crippled by a lengthy legacy of authoritarian structure, corruption and a lack of resources, was not able to progress to the trial of a strongman. Though Paraguay will certainly continue to evolve, the lack of a trial leaves a gap in the collective memory and justice process. This absence compounds the lack of institutional development and resources that make a trial possible, leading to a lower degree of trust between state and society.

While it is difficult to quantify the concept of reconciliation, which is based on emotion, and ascribe it to an entire population, these cases provide an overview of factors that contribute to an effective transitional experience long-term. Each of the factors examined contribute to the reconciliation process, and also prepare a nation for the last step before reaching the goal of reconciliation: the trial of a strongman. Examining the experiences of some Latin American nations, many of which are pioneers in transitional justice efforts, offers an overview of the strides some countries have made towards reconciliation between government and society. These nations offer an important lesson to other nations in transition on how to seek truth, justice, and ultimately reconciliation.

Appendix:

Table A:

Trials of Key Authoritarian Leaders

Country	Strongman	Years of Rule	Type of Charge	Year Indicted	Years of Trial
Argentina	Jorge Rafael Videla	1976-1981	Human Rights	1985, 1998, 2001, 2003, 2004	1985, 2010, 2012
Chile	Augusto Pinochet	1973-1990	Human Rights/Financial	1998, 2000, 2004, 2005	2006
Paraguay	Alfredo Stroessner	1954-1989	Human Rights	2000, 2001	N/A
Peru	Alberto Fujimori	1990-2000	Human Rights/Financial/Arms Smuggling	2003, 2005	2008

Table B:

Image of Progress in Chile, 2006. Image from CERC, 2006.

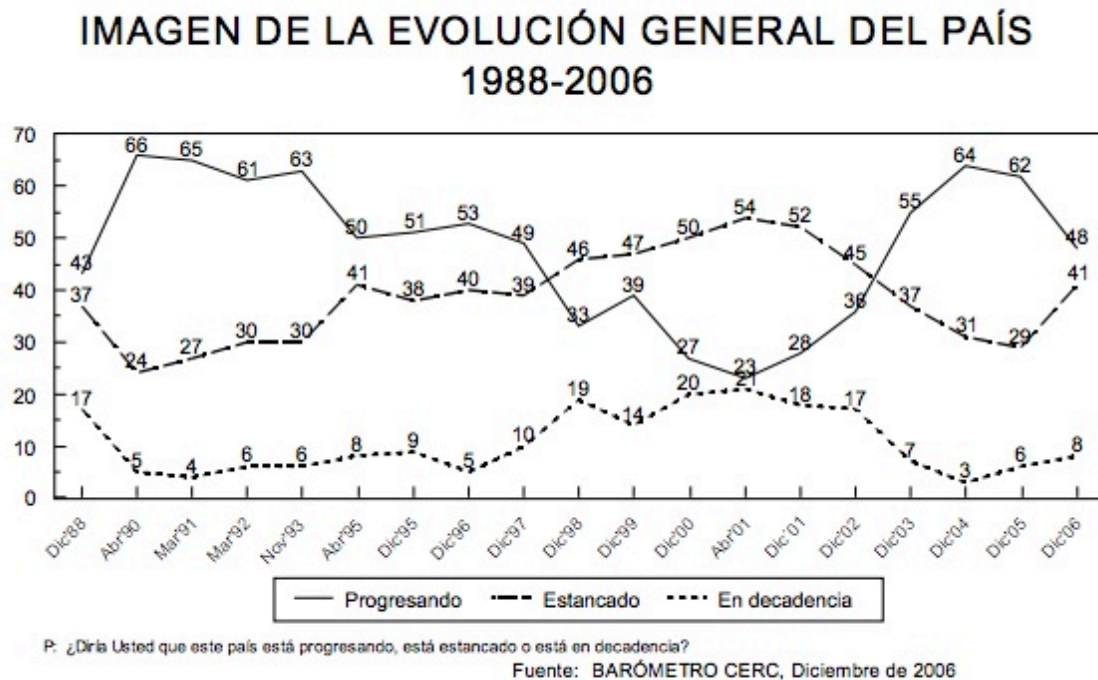


Table C: Confidence in the Government in Paraguay

	1996	2002	2003	2004	2005	2006	2007	2008	2009
Much	6	1	3	6	9	6	2	52	18
Some	34	5	13	32	28	20	13	32	42
Little	32	30	18	35	31	38	37	10	28
None	26	63	63	25	30	35	48	4	11
No Answer	1	0	1	0	1	0	0	0	-
Don't Know	1	1	3	2	2	1	0	1	1

Data: Latinobarómetro, 1996-2009

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